



**UNITED STATES DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**Tareq A. Khedir Al-Tiae, M.D.
Decision and Order**

On February 11, 2021, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Tareq A. Khedir Al-Tiae, M.D. (hereinafter, Registrant) of Lincoln, NE. OSC at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. FK4149882. It alleged that Registrant is without "authority to handle controlled substances in the State of Nebraska, the state in which [Registrant is] registered with DEA." *Id.* at 2 (citing 21 U.S.C. § 824(a)(3)).

Specifically, the OSC alleged that the Nebraska Department of Health and Human Services suspended Registrant's Nebraska medical license on July 1, 2020. *Id.* According to the OSC, Registrant's Nebraska medical license subsequently expired on October 1, 2020. *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 C.F.R. § 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. § 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated May 10, 2021, a Diversion Investigator (hereinafter, the DI) assigned to the Omaha Division stated that on February 26, 2021, he attempted to call Registrant at the phone number that Registrant provided to DEA, but received no answer and left a voice mail urging Registrant to return the call. Amended Request for Final Agency Action dated May 21, 2021 (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2 at 1-2. The DI stated that on the same day, he travelled to the address that Registrant provided to DEA as his registered and "mail

to” address, 4211 N. 8th Cir., Lincoln, NE 68521-4805. *Id.* at 2. The DI stated that nobody answered the door and he left a business card with instructions for Registrant to contact him. *Id.* The DI stated that he then traveled to an address in Grand Island, NE, which was “another address where [the DI] believed [Registrant] may be residing.” *Id.* The DI stated that again, nobody answered the door and he left a business card with instructions for Registrant to contact him. *Id.* The DI went on to describe how on March 2, 2021, and March 7, 2021, he made a second and third visit to Registrant’s registered and “mail to” address. *Id.* The DI stated that both times, nobody answered the door and he left additional business cards with instructions for Registrant to call him, but the DI never received a return call. *Id.*

The DI then described how on March 9, 2021, he again called Registrant at the phone number that Registrant had provided to DEA. *Id.* The DI stated that although someone answered the phone, “as soon as [the DI] identified [himself] and stated that [the DI] was looking for [Registrant], the person [on the phone] stated that [the DI] had reached the wrong phone number, denied that he was the [Registrant], and then hung up.” *Id.* The DI then stated that following the phone call, he sent Registrant an email at the email address Registrant had provided to DEA. *Id.* The DI stated that on March 11, 2021, he emailed a copy of the OSC to the same email address. *Id.* The DI concluded that Registrant did not respond to either email, did not return any of the DI’s calls, and did not respond to any of the messages that the DI left at the two addresses described above. *Id.*

The Government forwarded its RFAA,¹ along with the evidentiary record, to this office on May 21, 2021. In its RFAA, the Government represents that “more than thirty days have passed since the [OSC] was served on [Registrant] and no request for hearing has been received by DEA. RFAA, at 1. The Government requests that Registrant’s “DEA Certificate of

¹ The Government provided a Certificate of Service that stated that the RFAA was served via Registrant’s registered address by mail and also via his email address on May 21, 2021. RFAA, at 7.

Registration as a practitioner be revoked and his application for renewal denied, based on the [Registrant's] lack of state authority.” *Id.* at 6.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on (or before) March 11, 2021. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent the Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 C.F.R. § 1301.43(d) and 21 U.S.C. § 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 C.F.R. § 1301.43(e).

FINDINGS OF FACT

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. FK4149882 at the registered address of 4211 N. 8th Cir., Lincoln, NE 68521-4805. RFAAX 4. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on December 31, 2022, and is in “active pending” status. *Id.*

The Status of Registrant's State License

On July 1, 2020, the Nebraska Department of Health and Human Services suspended Registrant's Nebraska medical license. RFAAX 3. On October 1, 2020, Registrant's Nebraska medical license expired. *Id.*

According to Nebraska's online records, of which I take official notice, Registrant's license remains suspended.² Nebraska Department of Health and Human Services License Information System Search, <https://www.nebraska.gov/LISSearch/search.cgi> (last visited date of signature of this Order). Nebraska's online records show that Registrant's medical license remains suspended and that Registrant is not authorized in Nebraska to practice medicine. *Id.* Accordingly, I find that Registrant is not currently licensed to engage in the practice of medicine in Nebraska, the State in which Registrant is registered with the DEA.

DISCUSSION

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. 71,371 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term "practitioner" to mean "a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or]

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding – even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. § 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.usdoj.gov.

administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 Fed. Reg. at 27,617.

Under Nebraska law, “[d]ispense means to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery.” Neb. Rev. Stat. § 28-401(8) (Westlaw, Current through legislation effective May 6, 2021). Further, “[p]ractitioner means a physician . . . or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state” *Id.* at § 28-401(21). Because Registrant is not currently licensed as a physician, or otherwise licensed, in Nebraska, he is not authorized to dispense controlled substances in Nebraska.

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Nebraska. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Nebraska. Thus, because Registrant lacks authority to practice medicine in Nebraska and, therefore, is not authorized to handle controlled substances in

Nebraska, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant's DEA registration be revoked.

ORDER

Pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 824(a), I hereby revoke DEA Certificate of Registration No. FK4149882 issued to Tareq A. Khedir Al-Tiae, M.D. Further, pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 823(f), I hereby deny any pending application of Tareq A. Khedir Al-Tiae, M.D. to renew or modify this registration, as well as any other pending application of Tareq A. Khedir Al-Tiae M.D., for additional registration in Nebraska. This Order is effective [insert Date Thirty Days From the Date of Publication in the Federal Register].

D. Christopher Evans,
Acting Administrator.

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